

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE CONSTRUCTION EQUIPMENT ) MDL No. 3152  
ANTITRUST LITIGATION ) Master Case No. 25 C 3487  
)  
) Chicago, Illinois  
THIS DOCUMENT RELATES TO ) October 8, 2025  
ALL ACTIONS ) 1:45 p.m.

TRANSCRIPT OF PROCEEDINGS - STATUS HEARING  
BEFORE THE HONORABLE SARA L. ELLIS

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PROCEEDINGS REPORTED BY STENOTYPE  
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1 (Proceedings heard in open court:)

2 THE CLERK: Case 25 CV 3487, In re: Construction  
3 Equipment Anti Litigation -- Antitrust Litigation.

4 THE COURT: All right. If everybody could put --

5 COURT REPORTER: I got them already.

6 THE COURT: You got them? Okay. Great.

7 First, thank you for your patience today. We've -- we  
8 have a bit of a crazy day. It's been a crazy week, and it's  
9 only Wednesday.

10 I left something on my desk. I'll be right back.

11 (Pause.)

12 THE COURT: All right. So having reviewed everything  
13 and after our last hearing, this is the structure that I'm  
14 going to appoint.

15 So I'm going to appoint DiCello Levitt LLP and  
16 Berger -- is it Montague?

17 MS. CAPLAN: Montague.

18 THE COURT: Montague. Okay.

19 Berger Montague PC as co-lead counsel.

20 I am also going to appoint a plaintiff steering  
21 committee, and that committee will contain Lockridge Grindal  
22 Nauen?

23 MR. BORG: Nauen.

24 THE COURT: Sorry?

25 MR. BORG: It's Nauen, Your Honor.

1 THE COURT: Nauen. Thank you.

2 COURT REPORTER: Your name?

3 MR. BORG: Joseph Borg.

4 COURT REPORTER: Thank you.

5 THE COURT: Fegan Scott; Gustafson Gluek; Garwin  
6 Gerstein & Fisher; Cuneo Gilbert & LaDuca; and then Samantha  
7 Gupta of Freed Kanner London & Millen to the plaintiff steering  
8 committee.

9 And I've got an order to that effect that lays out my  
10 reasoning that will issue today, but I appreciate that  
11 everybody who put forth their credentials and volunteered to  
12 participate in the leadership of this MDL, and it was not easy  
13 to choose between all of the candidates. Everyone was  
14 extremely well qualified.

15 But I came to this decision based on looking at the  
16 factors of who was kind of integral in investigating the claims  
17 in this case and putting it together, who's knowledgeable,  
18 well resourced and geographically diverse, who devoted  
19 substantial time and effort in identifying and investigating  
20 the facts and researching the claims, and that there were  
21 several firms that would have been qualified under those  
22 factors.

23 So -- and at this point, I do appreciate the  
24 suggestion to appoint settlement counsel, but I think at this  
25 point it may be a little premature to go down that road. I am

1 certainly open to it in the future as the case progresses, but  
2 for now, I want to leave the leadership set as it is currently.

3 So let's talk about next steps.

4 All right. So the plaintiffs proposed that they file  
5 a consolidated amended complaint and that you wanted to do  
6 that.

7 So if we set that for November 7th, does that work for  
8 everybody?

9 MR. BARNETT: Yeah.

10 MR. CAPLAN: Yes.

11 MR. BARNETT: Well, I shouldn't speak for Mr. Caplan,  
12 because he's at Berger Montague. This is Alex Barnett from  
13 DiCello Levitt.

14 But I believe that's within the 30 days we had  
15 proposed previously, so --

16 THE COURT: Okay.

17 MR. BARNETT: -- that works.

18 MR. CAPLAN: Yes.

19 THE COURT: All right. So that is Friday the 7th of  
20 November.

21 I presume, without having seen any amended complaint  
22 but just knowing how this litigation tends to proceed, that the  
23 defendants are not going to be saying this is the world's best,  
24 most wonderful, most legal -- legally-based complaint, we will  
25 simply file an answer, and let's move on.

1 Is --

2 MR. MEDLOCK: That's a fair assumption, Your Honor.

3 THE COURT: Would that be fair? Okay.

4 So --

5 COURT REPORTER: Name, please.

6 MR. MEDLOCK: Oh, that's Stephen Medlock from Vinson &  
7 Elkins.

8 THE COURT: Okay. So presuming that I'm going to be  
9 getting either a motion to dismiss or a motion -- some  
10 combination of a motion to compel arbitration and a motion to  
11 dismiss, when would defendants like to file their responsive  
12 pleading?

13 MR. MEDLOCK: Your Honor, we -- this is Stephen  
14 Medlock for Rouse and RB Global.

15 We think 60 days afterwards with a little bit of a  
16 bump for the holidays makes sense.

17 THE COURT: Sure.

18 MR. MEDLOCK: So we were thinking 63 days, which would  
19 put us at January 9th.

20 THE COURT: Okay.

21 All right. And then plaintiffs' response, when would  
22 you want to get that on file?

23 MR. MEDLOCK: Go ahead.

24 MR. BARNETT: No, go ahead, please. I guess we should  
25 both come up here, yeah.

1 MR. CAPLAN: I believe we proposed -- well, it would  
2 have been March 9th, but if an extra three days to March 12th,  
3 which I don't think is the weekend.

4 THE COURT: Let me take a look.

5 Yeah, March 12th is a Thursday.

6 MR. CAPLAN: Yes.

7 THE COURT: Okay.

8 And then the defendants' reply?

9 MR. MEDLOCK: We were thinking 45 days for that,  
10 Your Honor, which would -- if we're doing March 12th, I think  
11 that would put us at April 26th with the same caveat that I  
12 don't know if that's a weekend.

13 THE COURT: That's a Sunday, so how about the 27th?

14 MR. MEDLOCK: We'll take it.

15 THE COURT: Okay.

16 And then I will set a ruling date then for August 18th  
17 at 9:30.

18 Emma, is this yours? That's not going to work, is it?

19 Okay. We want to say August 4th or end of July?

20 LAW CLERK: End of July.

21 THE COURT: Okay. Let's say July 28th. Sorry about  
22 that.

23 Does that work? Okay.

24 So July 28th at 9:30.

25 MR. BARNETT: Your Honor?



1 THE COURT: Yes.

2 MR. BARNETT: If we may. One question about the  
3 motion to dismiss since there are multiple defendants. We  
4 haven't spoken with the defendants about it, but obviously we  
5 would like to see one brief rather than nine multiple or eight  
6 multiple briefs, if possible.

7 THE COURT: So --

8 MR. MEDLOCK: We'll certainly do what we can to  
9 consolidate. It's just a little hard for me to guarantee that  
10 until I see the amended complaint.

11 THE COURT: Yes. So to the extent that the defendants  
12 can file one overall brief, that is my preference. Where  
13 there's specific claims that might relate to specific  
14 defendants and not others, those defendants can file a separate  
15 brief as to the issues that relate particularly to them.

16 Does that make sense?

17 MR. MEDLOCK: Yes, that addresses the issue.

18 MR. BARNETT: Yes. Thank you, Your Honor.

19 THE COURT: Okay. All right. Then the --

20 (Counsel conferring.)

21 MR. MEDLOCK: If I may, while we're on briefing,  
22 Your Honor.

23 THE COURT: Yes.

24 MR. MEDLOCK: I think the one thing we would want to  
25 take back and discuss with lead counsel for the plaintiffs is

1 page limits. I think we need to see the amended complaint,  
2 frankly, to understand that as well.

3 THE COURT: Yeah. And I'm -- you know, I'm not going  
4 to hold you to the 15 pages. I'm sure that the complaint is  
5 going to be --

6 MR. MEDLOCK: I would hope it would be slimmer, but I  
7 doubt it will be.

8 MR. CAPLAN: I doubt it.

9 THE COURT: I mean, it may be slimmer, but I don't  
10 know that you'll be able to do everything you need to do in 15  
11 pages. And I won't tell you that I'm going to stop reading at  
12 page 15 --

13 MR. MEDLOCK: Fair enough.

14 THE COURT: -- but, you know, my hope is I would not  
15 be looking at a hundred-page motion to dismiss.

16 MR. MEDLOCK: That's my hope, as well, yes.

17 THE COURT: Right? So brevity is a virtue.

18 MR. MEDLOCK: Mm-hmm. Understood.

19 THE COURT: And it would be good to practice that.  
20 But, you know, nobody needs to file a motion for excess pages.  
21 It's understood. Just don't drown me in paper, right?

22 MR. MEDLOCK: Understood, Your Honor.

23 MR. BARNETT: Absolutely.

24 THE COURT: Okay. What is -- what's the plaintiffs'  
25 position on discovery pending the motion to dismiss?

1           MR. CAPLAN: Your Honor, in the status report we put  
2 in on August 19th, we had proposed that 45 days from today, you  
3 know, we could spend that time to discuss with defense counsel  
4 if they were open to proceeding on anything. And we could come  
5 back to you at that point with an update.

6           THE COURT: Okay. All right. So at this point, I  
7 won't -- I'm not going to touch discovery. I'm not going to  
8 say that I'm staying it or not staying it. We can come back  
9 and talk about it.

10           So why don't we -- are you planning to talk to each  
11 other and come up with a proposal within 45 days, or when would  
12 you like to come back and see me?

13           MR. MEDLOCK: We're happy to do that on the defense  
14 side, Your Honor.

15           I just want to be transparent with the Court. We are  
16 likely to ask that, you know, all or nearly all discovery be  
17 stayed pending the resolution of the motion to dismiss.

18           THE COURT: Oh, I know.

19           MR. MEDLOCK: Sure. Yes.

20           THE COURT: It's not a surprises.

21           MR. MEDLOCK: Yes.

22           THE COURT: This isn't my first rodeo.

23           MR. MEDLOCK: I didn't think I was surprising you, but  
24 I just wanted to put it out there.

25           THE COURT: Yeah, not my first rodeo. Generally the

1 defendants don't want any discovery and plaintiffs want  
2 everything under the sun to start yesterday, and we generally  
3 come somewhere in the middle.

4 MR. MEDLOCK: Yes.

5 THE COURT: So why don't -- so why don't you file a  
6 status report before me on discovery and identify where you can  
7 kind of reach some common ground. There may be -- especially  
8 on the arbitration issue, which I know I had talked to you  
9 about kind of doing that informally ahead of time. There may  
10 be limited areas where discovery is appropriate to get started,  
11 or there may be a claim that we know is going to make it  
12 through and wouldn't hurt to at least get started on written  
13 discovery on that.

14 So why don't you give me a status report by -- how  
15 about by November 14th?

16 MR. BARNETT: Okay. Very good. Thank you, Your  
17 Honor.

18 MR. MEDLOCK: Thank you.

19 THE COURT: And then I will see you back --

20 MR. MEDLOCK: Your Honor, just one -- one note about  
21 the 14th.

22 From the defense perspective, we get the amended  
23 complaint on the 7th.

24 THE COURT: Mm-hmm.

25 MR. MEDLOCK: And then that gives us only a week to

1 really analyze.

2 THE COURT: Oh, all right. How about the -- do you  
3 want to say the 21st?

4 MR. MEDLOCK: That would be preferable. Thank you.

5 THE COURT: Sure.

6 And then why don't I see the parties back here  
7 December 2nd? And that will be at -- how about 10:30?

8 MR. MEDLOCK: Thank you.

9 MR. BARNETT: And, Your Honor, if I may, just to  
10 clarify, the 2nd will be to discuss the discovery issues that  
11 we have identified?

12 THE COURT: Yes.

13 MR. BARNETT: Okay.

14 THE COURT: So if -- you know, if you give me a status  
15 report that says we agree and life is copacetic, this is what  
16 we're going to do and this is what we propose and how we  
17 propose to do it and the dates, I will say thank you very much,  
18 and I will cancel the status date and simply enter an order.

19 If, as I suspect but deeply hope won't happen, is  
20 there are areas where you can't see eye to eye, then I'll put  
21 this on and see you and we'll decide where to go from there.

22 MR. MEDLOCK: Thank you.

23 MR. BARNETT: Thank you.

24 THE COURT: Okay. Am I missing anything? Anything  
25 else we need to cover?

1 MR. BARNETT: If I may. And I don't mean to  
2 complicate things potentially.

3 THE COURT: No.

4 MR. BARNETT: But with respect to the page limits on  
5 the motion to dismiss briefing, you said we don't need to file  
6 a motion for expansion, but would you like the parties to work  
7 out a stipulation amongst ourselves and file that with you?

8 THE COURT: Sure.

9 MR. BARNETT: Would that make sense?

10 THE COURT: That's fine.

11 MR. BARNETT: So that way we are working from the same  
12 song sheet amongst ourselves?

13 THE COURT: Yep, that's fine.

14 MR. MEDLOCK: Okay.

15 THE COURT: That's fine.

16 MR. MEDLOCK: Okay.

17 MR. CAPLAN: Should we submit that on the 21st as well  
18 then? Of November?

19 THE COURT: Sure. Yeah.

20 MR. CAPLAN: Okay.

21 THE COURT: That's fine.

22 Okay. Anything I've missed or haven't addressed that  
23 the parties want me to address?

24 MR. MEDLOCK: Not from the defense perspective.

25 MR. BARNETT: Thank you, Your Honor.

1 MR. CAPLAN: Thank you.

2 THE COURT: All right. Thank you very much.

3 MR. MEDLOCK: Thank you.

4 (Concluded at 2:05 p.m.)

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\* \* \* \* \*

8 I certify that the foregoing is a correct transcript  
9 from the record of proceedings in the above-entitled matter.

10 /s/Kelly M. Fitzgerald October 13, 2025

11 Kelly M. Fitzgerald  
12 Official Court Reporter

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